

MINUTES
BOARD OF ADJUSTMENT
August 6, 2009

THOSE IN ATTENDANCE:

Mel Disney, Acting Chairman	Jason Jaggi, Senior Planner
Anne Martin	Jeff Duke, Acting City Attorney
Rick Bliss	
Kevin Williams	

Acting Chairman Disney called the meeting to order at 5:00 p.m. He welcomed everyone to the meeting, introduced himself and asked that the other members of the Board and staff introduce themselves.

Acting Chairman Disney stated that the members of this Board are appointed by the Mayor and approved by the City's Board of Aldermen and serve without monetary compensation. He stated that the applicant must demonstrate practical hardship with regard to the property in order to justify the granting of a variance. He then advised that this is a duly advertised, duly noted meeting and that the proceedings are of record.

Acting Chairman Disney indicated that only four members were in attendance at this meeting and that all four must vote in favor of the variance in order for it to be granted. He verified that the applicants were in attendance and asked them if they wished to proceed even with only four members in attendance.

The owners indicated their desire to proceed.

MINUTES

The minutes of the meeting of June 4, 2009 were presented for approval. The minutes were approved after having been previously distributed to each member.

APPEAL FROM ELLIOTT NELSON & CHARLENE PRATHER FOR THE PROPERTY AT 35 HILLVALE

Elliott Nelson and Charlene Prather, owners, were in attendance at the meeting.

Everyone wishing to speak this evening regarding the appeal was sworn in by the recording secretary.

Acting Chairman Disney asked Jason Jaggi to provide an overview of the appeal.

Jason Jaggi began a PowerPoint presentation. The first slide depicted information pertaining to the subject property (i.e. R-2 Zoning designation, Claverach Park Subdivision, notable slope issues on site, existing garage does not accommodate two vehicles, etc.). Jason indicated that the property next door, 37 Hillvale, was granted a rear yard variance request in 1994. Jason noted a correction to the staff report and public hearing notice in that the required setback for the stairs is 36', not 44' as indicated. He stated that the 9' variance request still applies. Slides depicting an aerial map and site photos were presented. Slides depicting the rear yards of 37 and 33 Hillvale were also presented. Jason noted the location of the variance that was approved in 1994 at 37 Hillvale and the location of the detached garage at 33 Hillvale that was built in 2001.

Acting Chairman Disney asked if the City had any exhibits to present.

Acting City Attorney Duke noted that the City had the following exhibits to offer into evidence:

- (a) City's Code of Ordinances& Master Plan;
- (b) Application for Zoning Review;
- (c) Denial Letter;
- (d) Application for Appeal;
- (e) Drawings and corresponding material submitted by applicant; and
- (f) Staff Report.

Acting Chairman Disney indicated that if there were no objections, the Exhibits would be received into evidence.

No objections were received.

Ms. Prather thanked the members for attending and hearing their proposal. She stated that she and her husband want to construct a modest 2-car attached garage and that their existing garage will become a family room. She stated that the new garage will be placed on what is now a patio, but that the garage will not go as far to the west or north as the existing patio and it will be less than 24" higher than the patio. She reminded the members of the severe slope of their rear yard. She advised the members that years ago, they wanted to build a detached garage and the contractors who visited their property questioned why they would want a detached garage rather than an attached garage due to the slope of the property. She stated that this garage will be minimally intrusive to their neighbors. Ms. Prather then made reference to some of the photographs that were included in their submission that included photos of the existing patio and a photograph of the rear of their house from the back yard. She advised the members that she had a support letter from the Bluestones who live at 37 Hillvale.

Acting Chairman Disney informed Ms. Prather that a copy of that letter was provided by staff to the members.

Ms. Prather indicated that they have spoken to their neighbors and the only neighbor who indicated concern was the neighbor (Rothbaum) and that the concern revolved around water drainage, not the variance itself. Ms. Prather stated that the project architect was with them this evening if any of the members had questions for him.

Anne Martin commented that it appears the old garage is 460 square feet and the new garage is 576 square feet, a difference of only 116 square feet.

Ms. Prather indicated that they only want a garage that will accommodate 2 vehicles. She stated the garage will be approximately 24 X 24.

Anne Martin commented that it seems like it is more about the family room than the garage. She stated that it seems as though air and light will be reduced to the property at 31 Hillvale as a result of this garage and that the right elevation will be about 78' of unbroken "wall".

Ms. Prather agreed. She stated that the property at 33 Hillvale has tall, decorative grass and that there will be no difference from his yard.

Anne Martin reiterated that there will be a long, unbroken "wall" on that right side. She commented that the lot size is 10,968 square feet and that 5,988 square feet will be covered with impervious coverage, leaving only 4,980 square feet of greenspace.

Jason Jaggi indicated that Topos' calculation shows existing impervious coverage at 43.3% and new impervious coverage at 50%. He stated that this R-2 lot would be allowed 55% coverage.

Anne Martin commented that it seems that they will only have a yard that is 60 X 20.

Ms. Prather indicated that they have no yard now.

Acting Chairman Disney referenced Sheet A3 which shows the elevation.

Anne Martin stated that the garage will add 24 more feet of wall.

Ms. Prather indicated that the garage will be built into a hill and quite a bit of it will be underground.

Acting Chairman Disney asked if their basement is finished.

Ms. Prather replied "no". She stated that taller people would hit their heads on the pipes.

Acting Chairman Disney commented that it appears that they are losing a tree as a result of this garage.

Ms. Prather replied “yes”. She stated that they are planting two new trees.

Acting Chairman Disney asked if the stairs exiting the bedroom could become a landscape area and then no variance would be needed.

Jason Jaggi stated that the variance is required for the stairs leading from the driveway.

Acting Chairman Disney asked if that area were landscaped, then there would be no need for a variance.

Jason Jaggi concurred.

Acting Chairman Disney commented that he is excited about the addition, but his concern would be that in the future, this owner or a new owner may want to put a second story above this garage.

Anne Martin asked if the farthest northeast corner of the addition is ten or more feet from the side property line.

Ms. Prather indicated that it is just a little under 10 feet. She stated that their property narrows a bit at the back.

Jason Jaggi informed the members that they have obtained Trustee approval and that the project meets the side yard setback requirements, which is approximately 7 feet.

Kevin Williams commented that this Board has the power to approve the variance with the stipulation that no second story be added later.

Jason Jaggi indicated that if a second story is ever proposed, it would have to come back before this Board for a separate variance, which could be denied.

Ms. Prather indicated that they have no plans to build a second story above this garage.

Jason Jaggi reminded the members of a previous appeal request for a second story addition in Davis Place that was denied (O’Brien residence).

Being no further questions or comments, Rick Bliss made a motion to approve the two variances as requested. The motion was seconded by Kevin Williams and unanimously approved by the members. Motion carries and the variances requested were granted.

Rick Bliss, referring to the typed note reflecting an objection to the variance, asked staff if this objection was e-mailed or telephoned in.

Kathy Scott, recording secretary and secretary to the Planning Department, indicated that she had personally talked with the individual on the phone, but that the caller wished to remain anonymous.

Acting Chairman Disney asked that staff make note in the minutes of the anonymous objection that staff received. The anonymous objection was duly noted.

Being no further business for the Board of Adjustment, this meeting adjourned at 5:40 p.m.

Recording Secretary